## Senate Study Bill 1111 - Introduced

SENATE FILE	
ВУ	(PROPOSED COMMITTEE ON
	STATE GOVERNMENT BILL BY
	CHAIRPERSON SMITH)

## A BILL FOR

- 1 An Act relating to a declaration concerning the final
- 2 disposition of a person's remains and including
- 3 applicability provisions.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 1 Section 1. Section 144B.1, subsection 2, Code 2017, is
- 2 amended to read as follows:
- 3 2. "Designee" means a person named in a declaration under
- 4 chapter 144C that is contained in or attached to a durable
- 5 power of attorney for health care.
- 6 Sec. 2. Section 144C.2, subsection 8, Code 2017, is amended
- 7 to read as follows:
- 8. "Declaration" means a written instrument, contained in or
- 9 attached to a durable power of attorney for health care under
- 10 chapter 144B, that is executed by a declarant in accordance
- 11 with the requirements of this chapter, and that names a
- 12 designee who shall have the sole responsibility and discretion
- 13 for making decisions concerning the final disposition of the
- 14 declarant's remains and the ceremonies planned after the
- 15 declarant's death, except as provided in section 144C.3,
- 16 subsection 1.
- 17 Sec. 3. Section 144C.3, subsections 1 and 2, Code 2017, are
- 18 amended to read as follows:
- 19 1. A declaration shall name a designee who shall have
- 20 the sole responsibility and discretion for making decisions
- 21 concerning the final disposition of the declarant's remains and
- 22 the ceremonies planned after the declarant's death. However, a
- 23 declaration may include a directive that the declarant does or
- 24 does not want to be cremated. A designee shall not authorize
- 25 cremation when a declaration includes a directive that the
- 26 declarant does not want to be cremated or authorize alternative
- 27 arrangements when a declaration includes a directive that the
- 28 declarant wants to be cremated. A declaration may name one or
- 29 more alternate designees and may include contact information
- 30 for the designees and alternate designees.
- 31 2. A declaration shall not include directives for final
- 32 disposition of the declarant's remains and shall not include
- 33 arrangements for ceremonies planned after the declarant's
- 34 death, except as provided in subsection 1.
- 35 Sec. 4. Section 144C.6, subsection 1, Code 2017, is amended

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1 to read as follows:

- A declaration executed pursuant to this chapter may but
- 3 need not be in the following form:
- 4 I hereby designate ...... as my designee. My designee
- 5 shall have the sole responsibility for making decisions
- 6 concerning the final disposition of my remains and the
- 7 ceremonies to be performed after my death.
- 8 (One of the following shall be initialed by the declarant)
- 9 I want my remains to be cremated.
- I do not want my remains to be cremated.
- 12 final disposition of my remains to decide whether to cremate
- 13 my remains or to make alternative arrangements for disposition
- 14 of my remains.
- 15 This declaration hereby revokes all prior declarations.
- 16 This designation becomes effective upon my death.
- 17 My designee shall act in a manner that is reasonable under
- 18 the circumstances.
- 19 I may revoke or amend this declaration at any time. I
- 20 agree that a third party (such as a funeral or cremation
- 21 establishment, funeral director, or cemetery) who receives a
- 22 copy of this declaration may act in reliance on it. Revocation
- 23 of this declaration is not effective as to a third party until
- 24 the third party receives notice of the revocation. My estate
- 25 shall indemnify my designee and any third party for costs
- 26 incurred by them or claims arising against them as a result of
- 27 their good faith reliance on this declaration.
- 28 I execute this declaration as my free and voluntary act.
- 29 Sec. 5. Section 144C.6, subsection 2, unnumbered paragraph
- 30 1, Code 2017, is amended to read as follows:
- 31 A declaration executed pursuant to this chapter shall
- 32 be in a written form that substantially complies with the
- 33 form in subsection 1, is properly completed, is contained
- 34 in or attached to a durable power of attorney for health
- 35 care under chapter 144B, and is dated and signed by the

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- 1 declarant or another person acting on the declarant's behalf
- 2 at the direction of and in the presence of the declarant. In
- 3 addition, a declaration shall be either of the following:
- 4 Sec. 6. APPLICABILITY. This Act applies to a declaration
- 5 executed by a declarant pursuant to the provisions of this Act
- 6 on or after the effective date of this Act.
- 7 EXPLANATION
- 8 The inclusion of this explanation does not constitute agreement with 9 the explanation's substance by the members of the general assembly.
- 10 This bill provides that a written declaration executed
- 11 by a person naming a designated adult to make decisions
- 12 concerning the final disposition of the person's remains and
- 13 the ceremonies planned after the person's death is not required
- 14 to be contained in or attached to a durable power of attorney
- 15 for health care. A coordinating change is made in Code section
- 16 144B.1(2).
- 17 The bill also provides that while such a declaration
- 18 otherwise gives the designee sole responsibility and discretion
- 19 for making such decisions, the declaration may include a
- 20 directive indicating whether the declarant does or does not
- 21 want to be cremated. If the declaration includes such a
- 22 directive, the designee does not have discretion to make a
- 23 different decision concerning cremating or not cremating the
- 24 declarant's remains. The bill provides that the written form
- 25 of the declaration shall include alternative statements, one of
- 26 which shall be initialed by the declarant, indicating whether
- 27 the declarant wants the declarant's remains to be cremated, not
- 28 to be cremated, or wants to allow the designee to make that
- 29 decision.
- 30 The provisions of the bill are applicable to declarations
- 31 executed by a declarant on or after the effective date of the
- 32 bill.